



Memorandum

May 26, 1999

SUBJECT : Forest Service Receipt-Sharing Payments: Legislative History

FROM : Ross W. Gorte
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This memorandum responds to several requests about the early legislative history of the Act of May 23, 1908, that requires the USDA Forest Service to return 25% of its receipts to the states for use on roads and schools in the counties where the national forests are located. This provision was added to the Department of Agriculture Appropriations Act for FY1909 (ch. 192, 35 Stat. 251; 6th unnumbered paragraph under "Forest Service") in an amendment offered on the Senate floor by Senator Charles Fulton of Oregon. The floor debate over this provision — from 42 *Congressional Record* (May 11, 1908): 6056-6062 — is attached. Since the provision was added on the Senate floor, there is no discussion of it in either the House or Senate reports on the bill (H.R. 19158, 60th Congress, 1st Session).

The conference report (H.Rept. No. 1698) identifies the provision as Senate amendment numbered 30, and the House simply receded, with no discussion of the provision. While there was also no discussion of the specific provision on the floor in the House, there was a brief discussion of the concern. This discussion — from 42 *Congressional Record* (March 24, 1908): 3831-3835 — is also attached.

Finally, it should be noted that a point of order was raised on the Senate floor against the provision, arguing that it was general legislation in an appropriations bill. The objection was withdrawn when it was pointed out that identical language, except at 10% instead of at 25%, had been in the previous year's USDA Appropriations Act. A search for the provision in 1907 revealed that it had been retained from 1906. Again, the provision was added to the Department of Agriculture Appropriations Act for FY1907 in an amendment offered on the Senate floor by Senator Fulton. The floor debate over this provision — from 40 *Congressional Record* (May 24, 1906): 7355-7357 — is also attached. As with the 1908 provision, there is no discussion in the House or Senate reports on the bill (H.R. 18537, 59th Congress, 1st Session), and the conference report identifies it as Senate amendment numbered 60 and 61, and the House receded, with no discussion of the provision in the report or in the House.

For a discussion of the current implementation of this and related laws, and of current concerns, see CRS Report RS20178, *Forest Service Receipt-Sharing Payments: Proposals for Change*. For additional information, you can contact Ross Gorte at 7-7266.

Mr. FULTON. On page 25, after line 23, I move to insert what I send to the desk.

The PRESIDENT pro tempore. The amendment will be read. The SECRETARY. After line 23, page 25, insert:

That hereafter 25 per cent of all money received from each forest reserve during any fiscal year, including the year ending June 30, 1908, shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated, to be expended as the State or Territorial legislature may prescribe, for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated: *Provided further*, That when any forest reservation is in more than one State or Territory or county the distributive share to each from the proceeds of said reserve shall be proportional to its area therein.

Mr. HEYBURN. Mr. President, I feel constrained to move to amend the amendment by striking out the word "roads." Under our laws you can not use the proceeds of school lands for roads; you must use it for school purposes.

Mr. FULTON. They could if Congress so directed. That would not be the effect of it.

Mr. HEYBURN. It would be the effect of it by our constitution.

Mr. FULTON. I hope the Senator will not raise any question against the amendment. The committee, I understand, is satisfied with it, because it is exactly in the language of the present law.

Mr. HEYBURN. The difficulty arises in the fact that the legislature of Idaho can not enforce it. They can not distribute this money for public roads under our constitution.

Mr. FULTON. I am perfectly willing, as far as I am concerned, to strike out "roads."

Mr. HEYBURN. And let it be for schools.

Mr. WARREN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Wyoming?

Mr. HEYBURN. Certainly.

Mr. WARREN. I was in another place, suggesting items concerning the preparation of an appropriation bill for a few moments, and I did not hear the amendment read. I should like to have it read again.

I will say to the Senator from Idaho that it is my opinion that it is entirely in the option of the State whether it is to be used for roads or not.

Mr. HEYBURN. No; it is not.

Mr. WARREN. Let us have it read so that we may know.

Mr. TELLER. I wish that the amendment may be again read.

The PRESIDENT pro tempore. The Secretary will again read the amendment proposed by the Senator from Oregon.

The Secretary again read the amendment.

Mr. WARREN. As I caught the reading, it is entirely with the legislature of the State to determine what proportion, if any, of the money shall be appropriated for roads.

Mr. HEYBURN. I did not catch that from the reading of it, and I would be very glad if the Senator from Wyoming would point out wherein power or discretion is left to the legislature to appropriate all of it for public schools. I would favor the amendment—

Mr. WARREN. Let the Secretary read it again, if there is any doubt about it in the mind of the Senator.

Mr. HEYBURN. It says "shall."

Mr. FULTON. I should like to call the attention of the Senator from Idaho to the fact that none of this money can be paid to the State unless Congress says so. If Congress says it can be paid to the State for a certain purpose or purposes, the constitution of Idaho does not affect it at all.

Mr. CLARK of Wyoming. Will the Senator from Idaho allow me?

Mr. HEYBURN. Certainly.

Mr. CLARK of Wyoming. I make this suggestion to the Senator from Idaho: Would it not be possible for the legislature to divide the fund between the roads and schools in such a way that a proportionate amount should be given to the schools and roads, the schools receiving an amount in proportion to the school lands in the reserve?

Mr. HEYBURN. I will answer that by asking that that particular portion of the amendment be read, so that I can see whether the language would bear it out or not.

Mr. WARREN. I should like to have the language again read, and if the Senator thinks there is anything in the Idaho constitution that is obnoxious to it I should be glad to have it noted. I am quite sure it provides that so much money placed to the credit of the States by the Congress can be used as their legislatures may designate; that is, that it may all go for roads or all go for schools, or be divided. That is the way I understand the language.

Mr. HEYBURN. Let it be read, and I will call attention to it.

The PRESIDENT pro tempore. The Secretary will read the part of the amendment requested.

The Secretary read as follows:

Shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated, to be expended as the State or Territorial legislature may prescribe, for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated.

Mr. HEYBURN. I understand the question is raised as to whether that would leave it within the power of the legislature to so segregate this fund and apply that portion of it realized from the use of the school sections to the school fund and then, at its discretion, apply the remaining portion of the assignment of the fund to the roads. If it is susceptible of that construction, it would not be objectionable, but in connection with it, in order that the Senate may understand the point I make, I will call attention to that provision of the constitution of Idaho which is found in Article IX, section 3:

The public school fund of the State shall forever remain inviolate and intact; the interest thereon only shall be expended in the maintenance of the schools of the State, and shall be distributed among the several counties and school districts of the State in such manner as may be prescribed by law.

Now, this is the part:

No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated, except as herein provided.

Now, that is an arbitrary provision in our constitution regulating the income from the school lands.

Mr. WARREN. The language is "this fund." What fund is alluded to there?

Mr. HEYBURN. The school fund. I think the Senator will understand the language when I have fully presented the thought.

Mr. WARREN. Very well.

Mr. HEYBURN. Another provision which I read the other day, and which I will read again if necessary, provides that any income from these lands shall constitute the public school fund.

Mr. WARREN. From what lands?

Mr. HEYBURN. The 16's and 36's.

Mr. WARREN. This proposed amendment does not allude to 16's and 36's in any manner. It is 25 per cent of all the receipts for all purposes from all of the public lands within the forest reserves.

Mr. HEYBURN. In view of the admitted fact that there are between eight and nine hundred thousand acres of 16's and 36's in the State of Idaho alone that are included within the forest reserve, I think that answers the suggestion.

Mr. FULTON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Oregon?

Mr. HEYBURN. Certainly.

Mr. FULTON. The Government does not pretend to grant grazing privileges on the school sections or to collect rent for them if, incidentally, herds go on there. That is one thing. But the Government is not presumed to exercise any control over the school sections. This is Government land and Congress need not give one dollar of this to the State unless it sees fit so to do. Now, if Congress concludes to make a donation of that land, does the Senator from Idaho pretend to say the State can not accept it? If his State can not, ours can, and I trust he will not defeat the interests of other States.

Mr. HEYBURN. Of course there is no reason why the interests of Oregon and those of Idaho should clash in this regard. I am not advised as to the provision of Oregon's constitution. I am not advised as to what constitutes their school fund. Their constitution was made half a century ago or thereabouts, and the public school system of the United States at that time was comparatively in its infancy. But this is an absolute grant to the State. It is a mere play on words to say that the Government does not lease the school sections. It leases an entire tract of millions of acres, which includes these sections physically. They are not fenced or segregated. They are used as a part of an entire tract. It is the merest play on words to say that the Government does not lease the school lands or that it does not cut timber from them. As a matter of fact it does

both. It sells timber from the school sections and it grazes the school sections; it charges for doing it, and it collects this revenue.

I know of no reason why Idaho should be placed under the wheels of this Juggernaut here and the provisions of her constitution disregarded and nullified merely for the convenience of the consideration of the provisions of this bill as they apply to some other State. We are making laws here, and we are bound to respect the rights of the States. We have no right to disregard them, and if we undertake to do it it is a nullity, and it adds confusion to the situation for Congress to assume to legislate where it has no power to legislate.

We have time enough to consider this matter. There is nothing more important. That we should, in utter disregard of the constitution of any State in the Union, undertake to provide that the State lands should be used under the direction and the administration of this Bureau, and that the proceeds should be applied in a manner directly contrary to the provisions of the Constitution, seem to me to be so unreasonable that it ought not to receive a moment's consideration. Are you going to ask Idaho to go into the United States courts to contest this question? It will be compelled to do it. Idaho is not going to sit supinely by and see this vast fund that is provided for educational purposes diverted to the making of roads for the convenience of the Forest Service. It will not do it, and Congress only confuses the situation by attempting to provide that it shall.

Mr. DIXON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Montana?

Mr. HEYBURN. Certainly.

Mr. DIXON. I should like to suggest to the Senator from Idaho that even though his argument is borne out by the facts—which I can not possibly conceive to be the case—if Congress is willing to give Idaho one-quarter of the proceeds from the sale of timber within her forest reserves in lieu of the proceeds from one-eighth, which it has received from the forest reserves—

Mr. HEYBURN. Of the forest reserve receipts it now receives one-tenth.

Mr. DIXON. I can not conceive under what theory the State of Idaho should object to receiving 25 per cent in place of 10 per cent. I am certain the State which I have the honor to represent in part has no such conscientious scruples, and if it would ease the mind of the Senator from Idaho we could eliminate the State of Idaho from this provision.

Mr. HEYBURN. I think upon more mature consideration the Senator from Montana would not make such a proposition. It is not that this is not a fair proportion of the proceeds. It is a question as to directing arbitrarily how it shall be applied. I am not opposing the setting apart of 25 per cent of the proceeds derived from the use of these lands. I merely do not want Congress to undertake to say that the school fund, or any part of it, not even 10 cents of it, shall be diverted from the purposes to which it is to be applied under the constitution; that is all.

Mr. WARREN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Wyoming?

Mr. HEYBURN. Certainly.

Mr. WARREN. May I ask the Senator from Idaho what his State is doing with the 10 per cent which it has been receiving under the law worded exactly like this proposed amendment?

Mr. HEYBURN. It is in the treasury of the State.

Mr. WARREN. Does the Senator mean that it is unexpended?

Mr. HEYBURN. It is a part of the fund of the treasury of the State.

Mr. WARREN. That is begging the question.

Mr. HEYBURN. I do not think so.

Mr. WARREN. I want the Senator to answer, if he will, whether the State has received that money and made any use of it.

Mr. HEYBURN. I think I am safe in saying that the money is yet in the fund and has not been disposed of, because it is my impression that the legislature has not been in session since it was received. If I am mistaken in that, I think my colleague probably could correct me, because he was present at the session of the last legislature.

Mr. WARREN. Very well, I will ask the Senator's colleague.

Mr. HEYBURN. But I think it was received after the adjournment of the legislature.

Mr. WARREN. I ask the Senator's colleague, then, what has become of the 10 per cent that has been paid to Idaho heretofore under the law?

Mr. BORAH rose.

The PRESIDENT pro tempore. Does the Senator from Idaho yield to his colleague?

Mr. HEYBURN. Certainly.

Mr. BORAH. I am not informed as to what has been done any further than that it has been received by the State. As to the distribution of it I am not informed, because I do not know the details.

Mr. WARREN. Has the Senator heard of any difficulty his State has had in reference to the money due it from the sale of forest products or rental of forest lands, or has his State or legislature had any such difficulty?

Mr. BORAH. Idaho has never had any difficulty in receiving any money which has been tendered to it. It has been perfectly easy as far as it has received it.

Mr. WARREN. I want to say, if the Senator will pardon me—

Mr. BORAH. If the Senator will yield just a moment, I agree with my colleague in the interpretation which he places upon the constitution of the State, but it does seem that the proper interpretation of the amendment does not go to the extent of compelling the legislature to distribute any portion of the fund to the roads. I think the language of the amendment is that it is within the discretion of the legislature to utilize it for the purpose which the constitution suggested it should be utilized.

Mr. WARREN. Mr. President, just a moment further. I wish to say that as to the constitution of Idaho there can be no dispute between the Senator and myself, because it is the constitution of his State; but I will say to the Senator that the constitution of Idaho is almost identical—word for word—with the constitutions of four or five other States that came in just before or soon after Idaho. They have had no difficulty with this 10 per cent and would have none with the 25 per cent.

Mr. HEYBURN. Mr. President, I was, of course, sure that my colleague and I would not differ as to the interpretation of the constitutional provision. I desired that there should be such an expression here upon the floor during the consideration of this amendment as would leave it clear hereafter that Congress did not intend that the legislature of Idaho should be prevented from applying this fund entirely to school purposes. If the amendment is adopted with that understanding, and that is the interpretation that members supporting the amendment place upon it, then it will leave us less embarrassed than it otherwise would.

But, Mr. President, the object in putting that provision in the constitution (and I will say I participated in that act) was drawn from an object lesson in another State in the United States where a million dollars of the school fund had been diverted from one fund to another, loaned by the State officers from the school fund to a fund that was more convenient for political purposes, and that State to-day, after more than twenty years, has not been able to recover back into the school fund that more than a million dollars which was diverted. It was the intention of the legislature of Idaho that not one cent of the principal, interest, or income from the forests should ever be diverted from the school fund.

Now, under another provision of our laws we lease these school lands in Idaho, and the income from leasing them must go into the school fund. Our supreme court has held that not only the principal, but the income, from whatever source, must become a part of the principle to be used for public school purposes, and that it can not be diverted under any circumstances.

Mr. NEWLANDS. May I ask the Senator from Idaho a question?

Mr. HEYBURN. Certainly.

Mr. NEWLANDS. I do not understand that the Senator from Idaho objects to the gift of this 25 per cent to the various States, but he objects to any limitation as to its application, and he desires that the entire money shall go to the school fund rather than that any part of it should go to the county-road fund.

Now, I will ask the Senator, if he insists upon it that under the constitution of that State the moneys received from the land grants to the State shall go into the school fund, whether this provision has any relation whatever to the lands granted to the State? As I understand it, wherever the United States collects anything from grazing on the school lands belonging to a State it turns over the entire sum to the State, and that money, of course, goes into the school fund under the constitution.

Mr. HEYBURN. The Senator is mistaken in his understanding.

Mr. NEWLANDS. Do I understand that the United States does not turn over to the State whatever moneys it receives from grazing upon State lands?

Mr. HEYBURN. It turns over the per cent provided by existing law, or that may be provided by this bill. I can relieve the situation now, if the Senator will permit me.

Mr. NEWLANDS. May I ask the Senator whether the United States does claim the right to collect moneys for grazing upon the State lands?

Mr. HEYBURN. It is exercising it. I do not know what its claim is.

Mr. President, I am in favor of this amendment requiring 25 per cent of the income from these lands to be paid into the State treasury on the principle that if we get this, although it is not all that we are entitled to, it is that much gained against this system; and I do not intend to so oppose the amendment offered by the Senator from Oregon as to make it obnoxious to the Senate or that a point of order may be raised against it. I merely want an understanding, such as I think we have about arrived at, that the legislature of the State will be free to use this money for school purposes.

Mr. BACON. Mr. President, there are two or three considerations which naturally suggest themselves to anyone in regard to this matter, viewed from a general standpoint. One is as to the propriety of voting 25 per cent of the revenues of the Government from a certain source to certain States and Territories, and the other is as to our power to make any such disposition of the public revenues. If I understand correctly, this fund, the 25 per cent thus intended to be disposed of, is a part of the revenues of the Government.

Mr. HEYBURN. No.

Mr. BACON. Did I understand the Senator to say "no"?

Mr. HEYBURN. To the extent that these reserves include lands that do not belong to the Government only are they proposing to devote this fund and pay that portion that represents the State's lands into the State treasury.

Mr. WARREN. If the Senator will permit me, I hardly think the Senator from Idaho wants to be on record as saying that school sections, which are only about 5 per cent of the area of forest reserves, represent this proposed 25 per cent of forest earnings, because the school sections are 16 and 36—two sections out of thirty-six—or one-eighteenth, which is a little over 5 per cent.

Mr. BACON. Of course we have not had the amendment printed, and I had to gather the purport of it from reading it.

Mr. WARREN. Will the Senator permit me a moment further?

Mr. BACON. Certainly.

Mr. WARREN. I want to say to the Senator in just as few words as I can, that the public lands are, of course, free from taxation. As a new country settles up, it is very hard for the settlers to provide schools and pay expenses where the broad area is owned by the Government, free of taxes. We always expect that settlement will soon follow. Now, here comes a new policy—

Mr. BACON. Does the Senator desire to interrupt me for the purpose of an argument? I have not yet even stated my proposition.

Mr. WARREN. If the Senator wants to make an argument and does not want the information first, it is perfectly agreeable to me not to interrupt the Senator.

Mr. BACON. Not at all; I desire to have the information.

Mr. WARREN. I was going to give the information.

Mr. BACON. I do not desire the Senator now to discuss it, because I desire to do that myself.

Mr. WARREN. I do not propose to discuss it, but I propose to give some information.

Mr. BACON. I should be very happy to receive it.

Mr. WARREN. The forest reserves are reserves, presumably, for all time. Therefore settlement upon them practically stops. There may be a few exceptions. So, on the face of the proposition, there should be some contribution from the United States for the settlers. This amendment is an exact duplicate of the law as it now stands, enacted three or four years ago, setting apart 10 per cent. That has been thought to be too little by some, and hence 25 per cent is now proposed in the exact language of the existing law. It is not establishing a new policy, but it is enlarging the scope of it from 10 to 25 per cent, in lieu of the taxation that would be received if the reserves were open to settlement.

I thank the Senator.

Mr. BACON. I should like the Senator to say before he resumes his seat, if I did not correctly understand the statement made during the debate in the last few days, that these forest reserves are open to settlement.

Mr. WARREN. So far as the parts that are applicable to agriculture, which necessarily are but small as compared with the entire acreage.

Mr. BACON. That is a matter, however, not definitely determined. To what extent would that go? Anything that may be said to be adapted to farming purposes is open to settlement?

Mr. WARREN. No; it must be more valuable for agriculture than for other purposes. If it is heavily timbered it is not open to settlement.

Mr. BACON. I do not know what the language of the law is. That is a different statement from what I understood the Senator formerly to make.

Mr. President, I called for the reading of the amendment in order that I might see if the provision was limited to school sections. I do not so understand it.

Mr. WARREN. No; it has no reference to them.

Mr. BACON. And it is unlimited.

Mr. FLINT. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from California?

Mr. BACON. I do.

Mr. FLINT. I wish merely to remind the Senator from Georgia and the Senator from Idaho, who do not seem to be clear on the subject, that as far as the school sections are concerned in the forest reserves, if the State elects, it may accept an income from them. They have an income now, regardless of this 25 per cent; and it is simply a question whether the State desires to take the income under the plan which the Government has outlined.

Mr. BACON. I am very much obliged to the Senator, but I do not see that that gives any additional information upon the particular point we are now considering, and that is the question either of the propriety of the devotion of this portion of the income to the States or the legality of it. The amendment relates to all the income from forest reserves. It does not even say net income, but all the income. Here we are devoting millions of dollars in this bill—there is one single item here of over \$3,000,000—to the care and preservation of these forests, and now 25 per cent of the gross return of that is to be devoted to the particular States in which the forest reserves may be located.

I do not think, Mr. President, that that is a proper thing to do. I do not think the revenues derived from the forest reserves any more belong to the States in which they are situated than they belong to the States in which they are not situated, all of which, as I have said heretofore, contributed to the acquisition of them.

Mr. WARREN. May I interrupt the Senator for a moment?

Mr. BACON. Yes.

Mr. WARREN. If the Senator will turn his eye on the District of Columbia, he will recall that the United States Government pays one-half of the expenses of the District of Columbia, because, as I understand the reason of it, it has so much property here that is not taxed by the District government. In that way it contributes to the expense of the government of this District.

Now, take half of a State and throw it into a forest reserve; it is so much not subject to taxation. Hence this proposition of paying the State some portion of the income, so that the Government may pay a part toward the education of the youth of the State and the care and support of the State government.

That is as to the equity and propriety of it. Now, as to the amount, that is a matter of judgment.

Mr. BACON. There is no analogy between conditions in the District of Columbia and conditions affecting forest reserves. There is no possible comparison between the two, no analogy between the two, and without stopping to discuss these differences, I want to confine myself closely to this particular proposition.

If there is a hardship in the fact that too much of the territory of a State is set apart as a forest reserve, the remedy is not, in my opinion, in giving to that State a part of the property that belongs to the States in common, but it is in correcting the law setting apart these vast territories within a State if they do an injustice to the State. That is the remedy.

Mr. President, it has seemed to me that so far as the propriety of it is concerned the argument is very plain and very simple that these forests are the common property of the entire country and that all the States are entitled to the equal enjoyment of whatever may be derived therefrom. But, aside from that, where is the law which justifies it?

But, before proceeding to that discussion, Congress has not been indifferent to the equities which the States may have as to the public lands within their borders. I believe 5 per cent is now given to the States out of the proceeds of the sales of public lands. I doubt very much the legality of it unless it is stipulated in the act when the States are admitted to the Union. Of course, it is a proper thing to do and a legal thing to do if

Senator from Idaho

that is a part of the act under which the State came into the Union; but when there is no such stipulation, and when there is property in a State which belongs to all the States in common, what right has Congress to say that a particular State shall have more interest in it than any other State? What is the distinction between revenues derived from forest reserves and from the sale of public lands and revenues derived from any other source? Suppose the Senator from New York were to introduce a bill that one-fourth of all the revenues derived from customs duties in each State should be given to the State in which the money was paid. Well, it would be very vastly to the interest of the State of New York to have that done, because very much more than half of all, probably two-thirds, of the revenues which come to the Government by reason of customs duties—

Mr. CARTER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Montana?

Mr. BACON. In a moment. Two-thirds of all the revenues which come to the Government from customs come from the port of New York. What possible reason can there be, in law I am speaking of now, which would enable Congress to devote a portion of the public revenues derived from that source to the unequal enjoyment of a part of the country any more than revenues derived from any other source? Now, I yield to the Senator from Montana.

Mr. CARTER. Mr. President, I ask the Senator from Georgia upon what theory he can justify the payment of one-half of the taxes in this District by the Federal Government.

Mr. BACON. The Senator insists that I shall go back to that. I do not think there is any analogy between the two.

Mr. CARTER. Then I will ask the Senator another question—

Mr. BACON. The Senator has not permitted me to answer that one.

Mr. CARTER. The Senator disclaims an analogy—

Mr. BACON. I do.

Mr. CARTER. Therefore I desire to propound another question, which will be direct. Was it not the implied understanding when each new State was created that in due course of time, under the operation of the then existing land laws, the country would be settled up and the titles pass to private ownership and become subject to taxation?

Mr. BACON. I think so, and I think that understanding ought to be now carried out.

Mr. CARTER. Very well.

Mr. BACON. I am in favor of that; but I am not in favor of doing a wrong because another wrong has been done.

Mr. CARTER. But, Mr. President, the Federal Government now elects, for general public purposes, to depart from the ancient and well-settled policy so far as to take, through an act of Congress for instance, one-third of a State out of the taxable area, should not some compensation be allowed to municipalities, counties, and States thus injuriously and forever to be affected in their taxable wealth?

Mr. BACON. Now, Mr. President, the Senator says the Government elects to do so and so. What constitutes the Government? The law-making power; and the very power that can set apart this 25 per cent for the purpose of correcting what the Senator says is a wrong done by the same power can correct the wrong by undoing the original wrong; which is what ought to be done.

Mr. CARTER. Then, Mr. President, as soon as the Government elects to depart from its forest policy and to restore the public domain to settlement the 25 per cent will, of course, cease.

Mr. BACON. Well, Mr. President, if we have no legal right to give the 25 per cent, it can not be justified on the ground that we have done something else which has done injustice to the particular States in which the forests are situated. The very same power which can do what the Senator says will be an act of justice to the different States to compensate them for the wrong done can undo the wrong.

Mr. President, I entirely agree with what I have heard Senators discussing here for the past few days as to the great injustice done to certain States in setting apart these vast tracts, such large portions of the territory of the State as forest reserves, and in that way practically excluding them from settlement and development and subjection consequently to State taxation. I entirely agree with them, and I am ready to join with them in the correction of that wrong. When that wrong is corrected, not only will justice be done to the States, but justice will be done to the entire country, from the fact that in the settlement of these lands, in the sale of these lands, there will be a fund which will go into the Public Treasury of which the entire country will get the benefit; and then the State itself

will get the benefit in the settlement of the lands, in the development of property, and in the entire property within the State being subjected to State taxation. In that way wrong is corrected and justice is done to all.

But to say, Mr. President, that the same power which has the right and authority to correct the wrong shall let the wrong stand and then shall do an illegal act as compensation for it, it seems to me is without possibility of defense.

Mr. President, there are ways in which this can be done, as I have suggested, and it is not too late to do it now. We have a bill before us; but by what possible argument can it be defended—

Mr. FLINT. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from California?

Mr. BACON. I do.

Mr. FLINT. I should like to ask the Senator from Georgia to please point out a plan as to how the suggestion he makes can be carried out.

Mr. BACON. By simply withdrawing them; by simply doing away with all regulations which set them apart as forest reserves and throwing them open to settlement.

Mr. FLINT. And abandoning the entire forest-reserve policy which the Government has entered upon?

Mr. BACON. Very well, so far as it may be necessary. It may not be necessary to do it all at one time, because it could not all be settled at one time. If we were to do so, we could contract the area; we could throw open enough to settlement so that there could be the gradual and proper development of the State, the gradual and proper settlement by home makers; so that what is now a forest shall be converted into farms and so that what is now public property may be converted into private property subject to State taxation. That is the way in which it can be done; and we have got the very bill now before us in which we can make such provision.

Mr. FLINT. I simply wish to state to the Senator from Georgia that a large part of this land is not suitable for agricultural purposes anyway, even though the timber was cut from the land. It is mountainous land covered with timber.

Mr. BACON. For what purpose is it good, then?

Mr. FLINT. The sole purpose for which it could be used is for timber; and the system now inaugurated by the present Forestry Service is to cut the timber in such a way that the land would be reforested and would remain a forest forever.

Mr. BACON. Very well. Then I understand, so far as relates to the land covered with timber, the State has no injustice done to it by the fact that it is set apart for a forest reserve, because, if the forest were not there, according to the statement of the Senator from California, it could not be used by home makers.

Mr. HEYBURN. Mr. President, I think the Senator from Georgia will be glad to know that it is conceded that between six and seven millions of acres set aside for forest reserves in Idaho alone have no trees on them and are adapted to other purposes.

Mr. BACON. Very well. Undoubtedly so far as that wrong is concerned, it ought to be righted because it is a wrong. Now, Mr. President—

Mr. NEWLANDS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Nevada?

Mr. BACON. I do.

Mr. NEWLANDS. Mr. President, I wish to state to the Senator from Georgia what is already familiar to him, that in the States of Georgia, South Carolina, and North Carolina there is a movement to-day to put the Appalachian forests into the ownership and control of the National Government. I recently attended a great meeting of various boards of trade of Georgia at Atlanta, and I there heard the governor of the State of Georgia insist upon it that it was the duty of the United States to acquire the Appalachian forests, because they were the source of quite a number of navigable streams in that region, and that the preservation of the forests there would mean the development of those rivers for the purposes of navigation; that at present—

Mr. BACON. I yielded for an interruption by the Senator, if he will let me remind him of it.

Mr. NEWLANDS. I understood the Senator to yield to me, and I think the Senator is—

Mr. BACON. I did not desire to be taken off the floor, Mr. President.

Mr. FLINT. Mr. President—

Mr. NEWLANDS. I wish to say—

Mr. FLINT. I can not hear the colloquy which is going on between the Senator from Georgia and the Senator from Nevada.

Mr. BACON. That is not at all astonishing, in view of the other colloquies which are going on all over the floor.

The PRESIDENT pro tempore. The two Senators will please suspend until there is order in the Chamber.

Mr. NEWLANDS. Mr. President, I understood the Senator from Georgia yielded to an interruption.

Mr. BACON. I yielded to an interruption, and for any suggestion, but not for an elaborate speech.

Mr. NEWLANDS. I do not wish to make a speech, but I wish to make a statement regarding the Senator's own State and the States adjoining it. A certain position is taken by the governor of the great State of Georgia in regard to this matter, a position which seems to be sustained by public sentiment in the Senator's own State. If the Senator objects to my fully presenting that, of course I will withhold it until the Senator gets through with his remarks.

Mr. BACON. I think the Senator has quite fully presented it.

Mr. NEWLANDS. I have not finished it as yet. I was interrupted by the Senator, and do not wish, of course, to be discourteous to the Senator or to insist upon going on.

Mr. BACON. I certainly do not desire to be discourteous to the Senator from Nevada.

Mr. NEWLANDS. I recognize, of course, the Senator's right to the floor; and if the Senator does not wish me to go on, I will wait until some other time.

Mr. BACON. I do not object to the Senator making any statement of fact which he wishes to, but certainly the Senator recognizes the difference between an interruption in which he makes a suggestion and one in which he makes a speech.

Mr. CLARK of Wyoming. Mr. President, I am much interested in this colloquy, but we can not hear it at all on this side on account of the noise in the Chamber.

Mr. BACON. Mr. President, if the Senator from Nevada will proceed, let him go ahead if he wishes to, and I will resume when he gets through. I would prefer, however, to finish.

Mr. NEWLANDS. Mr. President, I certainly feel some delicacy in reference to proceeding when evidently the Senator from Georgia is unwilling that I should proceed.

Mr. BACON. I think I understood the suggestion of the Senator thoroughly, and I suppose every Senator here understands the suggestion without his repeating it, and that is, that the necessity for forest reserves is recognized in order to preserve the streams, and, as some contend, in order to secure a proper amount of rainfall. We all understand that, and, with proper restrictions, I am in favor of the suggestion which has been made with reference to the Appalachian range; but, Mr. President, that does not come up on this question at all.

Mr. NEWLANDS. Will the Senator yield for a question?

Mr. HEYBURN. Mr. President, I understood I had the floor, and yielded to the Senator from Georgia [Mr. BACON].

Mr. BACON. I beg the Senator's pardon; I had the floor. The Senator from Idaho had yielded the floor, and I took it in my own right.

The PRESIDENT pro tempore. The Chair recognized the Senator from Georgia in his own right, and the Senator from Georgia has the floor.

Mr. HEYBURN. I had not yielded the floor except to the Senator from Georgia for an interruption.

The PRESIDENT pro tempore. The Senator resumed his seat and the Chair understood him to yield the floor.

Mr. HEYBURN. I resumed my seat because of the length of the interruption.

Mr. TELLER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Colorado?

Mr. TELLER. Just a moment. It does not seem to me that it is a very valuable privilege for a Senator to have the floor in the confusion which prevails in this Chamber.

The PRESIDENT pro tempore. The Chair is trying his best to have less confusion.

Mr. NEWLANDS. Mr. President, will the Senator from Georgia yield to a question?

Mr. HEYBURN. If the Chair will pardon me—I do not want to be persistent—I offered an amendment, and I was addressing myself to it. The Senator from Georgia, among others, asked leave to interrupt, and I granted it as of course. The interruption became somewhat lengthy, and I resumed my seat. I am not at all inclined to be persistent about it, and I yield to the Senator from Georgia, but I should like to have my rights recognized in the matter.

Mr. BACON. No, Mr. President, I did not interrupt the Senator, and I did not address the Senator. I addressed the Chair.

The PRESIDENT pro tempore. The Chair recognized the Senator from Georgia [Mr. BACON], and the Senator from Georgia is entitled to the floor.

Mr. NEWLANDS. Mr. President, the question I wish to put to the Senator is this: I understand him practically as opposing the creation of forest reserves in the great West out of lands that now belong to the National Government. I should like to ask him how he reconciles that view with the policy now urged by the South and by the Senator's own State of the acquisition of property now in private ownership with a view to the creation of forest reserves in aid of navigation?

Mr. BACON. I did not catch the Senator's question.

Mr. NEWLANDS. I said I understood the Senator to be opposed to the creation of forest reserves in the great West, their creation out of lands now belonging to the United States Government, which means simply the reservation and not the purchase of those lands. Now I ask him how he reconciles his opposition to that policy with the policy which his own State sustains, as I understand, of the National Government acquiring large areas of land now in private ownership for the purpose of creating forests with a view to the promotion and aid of navigation?

Mr. BACON. Mr. President, the question is very easily answered by the fact that the Senator does not correctly state my position. I am not opposed to the setting apart of forest reserves, but I am opposed to the setting apart of forest reserves in such degree as is complained of here by the Senators in whose States those forest reserves have been set apart, as I understand, to the extent in some cases of almost a third of a State. Am I correct in that?

Mr. HEYBURN. More than a third of the State, Mr. President.

Mr. BACON. More than a third. That is what I am opposed to. I am not opposed to the setting apart as forest reserves of proper areas of territory included in which are timber lands, and I have never taken any such position. I am simply expressing myself as being in accord with the position which Senators have expressed here against the abuse of setting apart forest reserves to the extent of more than a third of the State of Idaho, for instance, thus practically withdrawing the land from settlement and practically debarring it from proper development.

SUSPENSION OF COMMODITY CLAUSE, INTERSTATE-COMMERCE LAW.

The PRESIDENT pro tempore. The Senator from Georgia will suspend for a moment. The hour of 12 o'clock has arrived. Under the unanimous consent agreement, that closes the morning hour and the Chair lays before the Senate the unfinished business, the title of which will be stated.

The SECRETARY. A joint resolution (S. R. 74) suspending the commodity clause of the present interstate-commerce law.

Mr. ELKINS. Mr. President, I ask that the unfinished business may be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from West Virginia asks that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered.

AGRICULTURAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed consideration of the bill (H. R. 19158) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1909.

Mr. BACON. Mr. President, the same reasoning which would support this amendment would support an amendment giving to the States 25 per cent of the sales of public lands. The fact that this is forestry land does not take it out of the rule, and, without consuming the time of the Senate, the same argument, while there may be some stronger reasons in one case than in the other, generally would support any proposition for the setting aside of the revenues derived from any particular source in any particular State to the uses of that State and to the exclusion of other States having equal right in that property, but in which the revenue does not happen to be collected.

Mr. NEWLANDS. Mr. President, I may have misunderstood the Senator from Georgia, but I certainly understood him to urge that the public lands of the West, now dedicated as national forests, should be opened up to settlement. Whilst he objected, of course, to such portions of the land as were not suited for forests being reserved as forests, he also indicated that the remaining lands which were forests should be gradually opened up to settlement and put into private ownership, and I understood his contention to be that in this way these lands, gradually drifting into private ownership, would be subject to taxation, would swell the revenues of the State, and would enable the State, the counties, and the municipalities to discharge all the functions of government. That is what I understood the Senator's position to be, and I could not reconcile it with the view taken by the Senator's State, by the peo-

ple of the adjoining States, and by the people of the entire South that a new policy should be inaugurated in the United States, not simply the policy of reserving as national forests lands now belonging to the Government, but the policy of purchasing lands now in private ownership with a view to dedicating them forever to forestry, the power being claimed under that grant of power in the Constitution to regulate interstate and foreign commerce, the existence of forests being absolutely essential to the control of the volume of the streams and the rivers, and therefore being absolutely essential to the promotion of navigation and thus of interstate and foreign commerce.

Mr. BACON. Mr. President, with the permission of the Senator—

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Georgia?

Mr. NEWLANDS. Certainly.

Mr. BACON. I desire to say that I have not said anything which would indicate that I was opposed to the reservation of a proper amount of land as forest reserves, and the Senator, in spite of my disclaimer, continues to make an argument upon the assumption that I had so stated. I can only say that I congratulate the Senator upon the skill with which he knocks down a man of his own creation.

Mr. NEWLANDS. I was only stating, Mr. President, my understanding of the Senator's remarks and the reason of my interruption whilst the Senator was speaking. I accept, of course, the Senator's explanation.

The question before the Senate now, however, is not whether too much land has been taken for these forest reserves, but the question is, assuming that certain lands must be taken and ought to be taken for reserves and ought to be reserved as such for all time, whether these vast areas in individual States shall be kept entirely free from taxation as the property of the National Government, or whether the National Government, recognizing the obligation of the State to govern every inch of the land within its boundaries, to furnish the courts, furnish the methods of criminal prosecutions, furnish the roads, and furnish the schools, should be aided by the National Government in that work, either by a subjection of the lands themselves to local taxation, or by a surrender to the State and to the municipalities for public purposes of a certain proportion of the revenues derived from these lands protected by the State Government.

Now, I wish to state that it has been the custom of the Government from the earliest days to deal freely with these public lands in the interest of the nation or in the interest of an individual State, if it thought that the interests of an individual State would be advanced by its action. Grants of public lands have been made without consideration to the various States. Swamp lands within the forest States have been granted to those States without consideration. Has any State in this Union, an interior State without swamp lands, objected to such grant? And yet they were grants not for the benefit of the General Government, not shared by every State in the Union, but grants for the benefit of the particular State in which the lands were located.

When the United States has granted school lands, the sixteenth and thirty-sixth sections of every one of the public-land States, did the States outside of the public domain object upon the ground that those lands were the property of the nation; that the nation could only part with them for a valuable consideration, and that the valuable consideration received should be expended in the general expenses of the Government, applicable to every part of the nation and every State in the Union?

On the contrary, the public-spirited policy has been pursued of aiding the cause of education of the individual States by the grant of the sixteenth and thirty-sixth sections. And so it is with reference to the forest reserves. Already we have upon the statute books a grant to these States of 10 per cent of the income received from the forest reserves and income received from the people of those States for timber and for grazing. So it is a simple question as to whether that amount should be increased; whether 10 per cent of the gross revenue is sufficient to compensate the States for the loss of the taxation which they would be enabled to levy if these lands were in private ownership. I do not understand that anyone objects to the proportion. No one who knows anything about the struggles of those Western States to maintain an efficient school organization, to maintain a judicial organization, to maintain a sufficient organization for the prosecution of criminals and an efficient organization for the construction of good roads over the vast territory sparsely settled, certainly has objected to giving to the people of each individual State 25 per cent of the revenue derived from these lands, derived from the local people who pay for this grazing and who pay for this timber.

No one would certainly object, it seems to me, to that as a fair proportion in lieu of taxation.

I am sure if these lands were subjected to taxation under the ordinary rate that prevails in that region, of from 2½ to 3 per cent, those States would absorb the entire present receipts, instead of only 25 per cent of them; and so the question, it seems to me, comes simply to this: It is not one of power, not one of public policy, but simply one of just proportion; and I am sure there is no man from the West who will say that 25 per cent of these gross receipts is too much.

Mr. HEYBURN. Mr. President, the State of Idaho had, in addition to the 16's and 36's, by virtue of the admission act, in round figures, 700,000 acres of land granted to that State in lieu of its surrender of swamp, overflowed, and saline land. It has of 16's and 36's—I have just made the computation—more than a million acres within the forest reserves, and 700,000 acres of land granted to it in lieu of its surrender of the swamp and saline lands.

Mr. President, the value of this land fixed by the admission act would be \$10,668,000. That is the minimum, but they are worth more than that on the market any day they are offered. They will average more than that, because a large portion of these lands are timber lands, as fine timber lands as ever existed, and the State is continually selling these lands, or lands of similar character, lying outside of the reserves, under the provisions of the constitution, for from \$10 to \$70 an acre at public auction. So that it will not be considered that I am dealing with a small or unimportant question when I speak for the protection of the State's rights and the State's interest in these lands. I repeat, for conciseness, under the minimum price fixed by the admission bill and by the constitution those lands are worth \$10,668,000. At public auction to-day under the method provided for their sale by the States they are worth twice that much money.

The school lands alone in the State of Idaho are the resource behind the education of the people of that State to-day and forever. They are sufficient to maintain the public school system and the university system and the other school systems for all time. And for a representative from that State to sit silent while this body or any other legislative body encroaches upon the right of the State to those lands would be to fail in the performance of a public duty.

It has been repeated time and again on this floor that these lands belong to all the people of the United States. So they do. But they must come to Idaho to get their property. They can not take that inheritance out of the geography of that State by any process. We welcome them. But nonresident ownership of land is the bane of any country upon earth. That land should be owned simply for the pride of title and allowed to remain unproductive and noncontributive in any State is against the very foundations of our Government. We want no absentee landlordism in Idaho or in the Western States any more than you desire it here.

I desire to meet explicitly the statement that these lands belong to all the people of the country. By that challenge, come and get them and become citizens and assume the responsibilities and duties of citizenship that appertain to that land, and assume it in Idaho, and we will have no complaint. Every private owner there can turn his farm into a forest reserve or a game reserve if he wants to, but he will pay taxes on it and perform the duties of citizenship.

The Senator from Massachusetts [Mr. LODGE] a few days ago was extolling the beauties of game reserves and deploring the diminishing quantity of game in the country. One herd of cattle that graze upon our plains is of more benefit and is more desirable than all the buffaloes that ever ranged upon the plains of the West. The idea of standing up here and comparing the attributes of that barbarous period of this country, when it was controlled by the Indians and ranged by the game, with the civilization which has succeeded seems to me to be absolutely without rhyme or reason. We will trade our Indians for the live Yankees or the enterprising Southerner or the American citizen, wherever he may come from, and we will trade a hundred Indians for every one such who comes, and we will trade all the elk and spotted deer and the buffalo and game of every kind—a thousand head of them—for one little herd of blooded stock. We will trade all the sweeping scope of the prairies and plains and forests for inclosed and improved homes. That is what we want. We send back to the challenge—"come and get your land; it is yours; but bring with it the responsibility of citizenship and the contribution to the wealth of the State where the land is." That is a complete answer to all this talk which has been made here as to the rights of the people of the East in the land within the States of the West.

In this morning's Washington Post there is an editorial upon that subject. It says that the elements in Congress are divided on the preservation of the forests. They are not. We want to preserve for use—

Mr. FULTON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Oregon?

Mr. HEYBURN. Certainly.

Mr. FULTON. I know the Senator is favorable to the pending amendment. Has the Senator any objection to the Senate taking a vote on the amendment and then proceeding with his argument?

Mr. HEYBURN. I have no objection to a vote on the amendment with the understanding that I shall thereafter proceed. I have a pending amendment. The amendment really pending is my own. But I yield to the Senator from Oregon, and I will yield to a vote on the amendment with the understanding that I shall resume the floor.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Oregon [Mr. FULTON]. Those in favor of the amendment will say "aye."

Mr. BACON. I make the point of order that the amendment proposes general legislation.

Mr. FULTON. I think it is too late.

Mr. BACON. No. I addressed the Chair before the Chair announced the result.

Mr. WARREN. I rise to the point of order.

The PRESIDENT pro tempore. The Senator from Wyoming will state his point of order.

Mr. WARREN. Is the Chair considering the point of order?

The PRESIDENT pro tempore. The Chair is considering it now.

Mr. WARREN. I want to say, as to the point of order, that the committee have not raised it. The committee, believing that it was simply a reproduction, so far as legislation is concerned, treated it as if it was simply an increase of an appropriation, and so the amendment is in order.

Mr. KEAN. It changes existing law.

Mr. NELSON. I desire to say a few words, Mr. President. With the exception of an increase from 10 to 25 per cent, the amendment follows exactly the provisions of existing law. Under the existing law 10 per cent of the proceeds derived from forest reserves is paid to the respective States for the purposes indicated in the amendment. The only change in existing law is to increase it from 10 to 25 per cent.

Mr. WARREN. Which is not general legislation.

Mr. NELSON. On that account it is not general legislation.

Mr. BACON. I withdraw the point of order.

The PRESIDENT pro tempore. The Senator from Georgia withdraws the point of order. The question is on agreeing to the amendment proposed by the Senator from Oregon.

The amendment was agreed to.

The CHAIRMAN. The gentleman from Arkansas is recognized for four minutes.

Mr. REID. Mr. Chairman, I was very much interested in the remarks of the able chairman of the Committee on Agriculture relating to the extension of the forest surveys of the country, and I had intended to discuss that subject at some little length if I could secure the time, but, not being able to do so, I now ask the unanimous consent of the committee, at the expiration of the time allotted to me, to extend my remarks upon the subject in the Record.

The CHAIRMAN. The gentleman from Arkansas [Mr. REID] asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

Mr. REID. Mr. Chairman, in the last few months, by the proclamation of the President, there has been withdrawn from the public domain in the State of Arkansas something like 2,000,000 acres of land, which have been set apart as forest reserves. This, it will be noticed, is an area almost as great as the combined acreage of the two States of Rhode Island and Delaware. It is two-thirds as large as Connecticut and nearly half as large as New Jersey. It brings the aggregate area of the national forest reserves up to the dignity of a territorial domain greater than all New England and the State of New York combined. Parallel with the expanding area of the national forest reserves is also the steadily increasing importance of the Forestry Service and the broadening application of the policies they have inaugurated. From the proposition to set aside a few areas on account of the peculiar conditions that existed we have advanced to an entirely new policy with reference to the public domain, at least so far as the country is concerned. In many respects it is an extreme departure from the idea that we have for long years entertained in regard to the power and purposes of the Federal Government in the disposition of the public lands.

I deem it, Mr. Chairman, as highly important that we should examine carefully the scope and purpose of this new movement and test it by the principle which constitutes the framework of our Government before proceeding so far that mistakes can not be remedied. Arguments that our forests may be made a source of great revenue are alluring, but ours is not a monarchical government. Our domain is not held as a source of profit to the State, but that it might become homes for the American people and that every citizen might select where he pleased. Arguments that it is not intended to interfere with the homesteader may tend to popularize the movement, but a careful examination will disclose that the services can not be properly administered and its avowed purposes accomplished consistent with a liberal construction of the homestead law. The establishment of the homestead law within the reserve must be consistent with the purposes of the reserve. We had as well meet the matter fairly. If we establish the policy we must recognize it as a long step toward eradication of the homestead laws. If this is to be done, and surely something must be done to conserve the timber resources of the country and in the interest of navigation, what are the rights of the States to whose taxable values these lands would otherwise have added? No well-informed man will deny that to the operation of the homestead laws, perhaps more than any other one thing, is due the wonderful development and progress of the West.

When the act of March 3, 1901, was passed vesting in the President the power to make these reservations, no general notice was taken of the fact in the State of Arkansas; for the reason that until then but a few people were aware that enough public lands of the required character were lying contiguous in the State to constitute a reserve of any consequence. Still fewer conceived the idea that the public good required the segregation of the lands for such a purpose. When the proclamation of the President attracted general attention to the fact, most people were inclined to look with apprehension upon the movement. The fact is well known to the people of that State that a large per cent of the lands embraced in these reserves are susceptible of a high state of cultivation in the ordinary crops of the country, and a still larger per cent would maintain orchards and vineyards of the highest order. In short, the fact is that most of these lands can be made homes for the people. They are high and healthy and with an abundance of pure water and other conditions that invite settlement and development. The State, in advertising her resources and inviting immigration from overcrowded sections of the country, has pointed to her vast public domain as available for homestead entry and development. We have looked forward to the time when these lands should become the subject of private ownership and go upon the tax books of the counties in which they lie and contribute their share toward bearing the public burdens and maintaining the school systems of the State.

Charles
Mr. REID. Mr. Chairman—
The CHAIRMAN. For what purpose does the gentleman from Arkansas rise?

Mr. REID. The gentleman from South Carolina [Mr. LEVER] reserved the balance of his time, which was four minutes, and yielded that much time to me.

It is not denied that the public domain should be administered in the interest of all the people, but the policy established by the homestead law under which the people of the immediate locality and the State in which the lands lie are made to realize the immediate, and the general public the indirect but not less substantial, benefit is so deeply embedded in the minds of the people of the States where the conditions exist that they are extremely slow to realize that a great benefit may be secured to them and their children by the appropriation of these lands to a different purpose. I confess that I have reached the conclusion that the establishment of these reserves in my State is to the public good only after a careful examination into the whole question and in spite of preconceived ideas to the contrary. To one who will give the question the thought it deserves it will be made to appear that there are overwhelming reasons why these forests should be intelligently conserved. Not only is it essential to the perpetuation of an abundant supply of lumber and wood, among the chief factors of human progress, but their effect upon climatic condition is equally important. Beyond this is the still more important fact that the destruction of the forests upon the mountain slopes leaves the soil unprotected, and the rains, which should add to the productiveness of the earth and preserve the equal flow of the water, unrestrained by the sponge-like character of the forests and the fallen leaves, become a destructive agency by which the fertile surface soil is carried suddenly into the stream below, filling up the channel, obstructing navigation, and forcing the stream from its banks to inundate the surrounding country, only to be followed by extreme scarcity of water in the earth and in the streams as the season when it is most needed advances.

That the control and navigability of the inland streams as well as the question of overflow of the lowlands are interdependent upon the proper management of the forests on the headwaters is no longer open to controversy. These are not speculations, but are based upon clearest scientific principles. So generally have these facts come to be recognized and so important are they considered to the general welfare that the President, in his message to Congress December 3, 1907, recommended that—

We should acquire in the Appalachian and White Mountain regions all the forest lands that it is possible to acquire for the use of the nation. These lands, because they form a national asset, are as emphatically national as the rivers they feed and which flow through so many States before they reach the ocean.

Bills have been introduced looking to the acquirement of title to lands situated on the watersheds of navigable streams in the Southern Appalachian Mountains within the States of Maryland, Virginia, West Virginia, North Carolina, Kentucky, and Tennessee and the White Mountains within the States of New Hampshire and Maine. In March, 1907, in the agricultural appropriation bill, Congress directed the Secretary of Agriculture to investigate these watersheds and report to Congress, among other things, as to the advisability of setting apart these regions as a national forest reserve for the purpose of conserving and regulating the water supply and flow of the streams in the interest of agriculture, water power, and navigation. Investigation by competent experts has disclosed that the country consumes every year more than three times as much wood as is being grown in the same length of time, and the commercial supply, it is estimated, will be exhausted in less than thirty years.

Recent reports from the Forestry Service show that decisive action must be taken at once to avoid the destruction of the manufacturing interests which depend upon a permanent supply of wood. These manufactures embrace the makers of lumber and building materials, the manufactures of agricultural implements, vehicle makers, cooperage interests, and furniture factories. Last year the cotton-milling industry of the South and East and the different factories throughout the country suffered more than a hundred millions, due to floods traceable to the destruction of the forests. This does not include the value of crops and other farm property destroyed in the lowlands, involving the caving of banks and destruction of levees. These are but a few of the reasons that have given rise to the sentiment which is national in its scope demanding the creation of forest reserves in all parts of the country. Another thing that should be mentioned in this connection is the fact that the establishment of these reserves will operate to prevent the speculation in timber so widely carried on under the guise of homestead entries, and at the same time, if the forest avowed policy is carried out in good faith, such lands as are really best suited to agricultural purposes may still be made available for homes for the people.

These reasons, it seems to me, are entirely sufficient to overcome every objection to the movement, even though we entirely disregard the sad experiences of other nations in permitting the

entire destruction of their forests. We learn from information collected by the Forest Service that sylviculture was a subject of interest more than 2,000 years ago. The pathway of civilization has been hewn through the forests. They are first encountered as obstacles and their superabundance regarded as a hindrance to progress and development. As their borders were gradually driven back by waste and destruction, the question of wood supply and building material forced itself forward along with the discovery of the fact that the forest was the controlling factor in the flow of the streams and the fertility of the soil. Nations that had permitted the wanton destruction of their forests set about the slow and expensive process of reforestation. Out of the dire necessity of the situation came the recognition of the fact that the forests are essential and should be regarded like any other crop—fit for the harvest only when ripe, and so managed as to be made to grow again. China and Turkey are the only remaining civilized nations to-day that do not practice forestry. It has been suggested that the standard of the civilization of a nation may be determined by its recognition of the value of its forests. The costly experience of France alone in suffering the deforestation of her mountain sides and watershed should be sufficient to warn all other countries. From the history of this movement compiled by the Forestry Service, we learn that more than three hundred years ago the influence of the forests upon the dangerous torrents of the Alps and the Pyrenees was recognized, and restrictions were prescribed against clearing the mountain sides, and their violation punished by fines, confiscation, and corporal punishment.

These restrictions were effective for a time, but they were swept away by the French Revolution, to be followed by the almost immediate result that the brooks were converted into torrents that swept down the mountain sides unchecked, overflowing the valleys and covering them with sterile soil until 800,000 acres of farm lands were practically destroyed. The inhabitants of eighteen Departments were driven into poverty from their homes. Toward the close of the eighteenth century conditions had grown so alarming that a reaction began, and with the nineteenth century came the movement to repair the damage done by the costly mistake. After several unsuccessful attempts recourse was had to reforestation. One and a half million acres have been acquired, and before the work has been completed over \$50,000,000 will have been spent in the work. The changing of the sand dunes on the coast into forests of valuable wood and the transformation of 2,000,000 acres of sands and marshes into a forest worth \$100,000,000 are some of the practicable results that have been accomplished. Lands in France which could be bought for \$4 an acre before reforestation began are now yielding a net annual revenue of \$3 per acre. Thus it is shown that forestry in France has not only removed the danger from floods and sand dunes, but has added many millions to the natural wealth, and a net annual revenue of over \$4,700,000. A glance at the statistics compiled upon this subject by Mr. Cleveland, of the Forestry Service, will show that the United States has not exercised its usual spirit of enterprise and progress upon this subject.

France took steps in this direction over three hundred years ago. The first ordinance of Bern for the regulation of forests in Switzerland was issued six hundred years ago, and the Shilwald of Zurich, intelligently managed since 1860, yields an average net annual profit of \$12 per acre. Sweden awoke in 1638 to the fact that her marvelous forests could be destroyed by waste and neglect, and appointed her overseers of forest to conserve the supply. Denmark stopped the destruction of her forests in 1805 and began a management along careful and profitable lines. Russia, profiting by the experience of Germany and France, began the conservation of her forests two hundred and fifty years ago. Protective measures were commenced in India at the beginning of the nineteenth century, and Japan enjoys the distinction and profit of having practiced forestry before the dawn of the Christian era. Italy and China furnished impressive examples of what it costs a nation to suffer the destruction of her forests. These facts not only admonish us in no uncertain tones that the conservation of our forests must be undertaken at once, but that we have suffered much by waiting so long to commence. The most important fact, however, to which I desire now to call your attention, is that these natural forests, where scientifically managed, are made to yield a revenue of considerable proportions.

France and Germany combined have a forest area of only 14,500,000 acres, and yet reap an annual net revenue of \$30,000,000. The total net revenue from the state forest of Austria is more than \$5,000,000. From three and one-half millions of acres in Hungary an annual net revenue of \$600,000 is derived. Sweden from the same source nets two million per annum, and Russia from her 660,000,000 acres realizes \$21,-

500,000; India, \$3,300,000; Japan, \$3,000,000. The Forestry Service has compiled a table showing the amount of expenditure per acre upon the national forests of the countries where they are maintained and the net revenue derived therefrom. With the exception of the United States it is as follows:

Country.	Expenditure per acre.	Net revenue per acre.
Württemberg	\$2.05	\$6.00
Saxony	3.00	5.30
Baden	3.58	4.42
Hesse	1.25	4.29
Switzerland	1.32	2.65
Prussia	1.58	2.50
Bavaria	1.99	2.22
France	.95	1.75
Italy		.33
Hungary	.34	.32
Austria	.56	.21
Roumania		.18
Spain		.17
Sweden	.02	.09
Russia	.01	.032

From these figures the significant fact appears that the greatest net revenues are produced where the greatest expenditures have been made. The United States, with an expenditure of \$0.007 per acre for the year 1905-6, sustained a deficit of \$12,000, and with an expenditure of \$0.093 for 1906-7 realized a revenue of \$128,659. Now, it is apparent that unless there is some obstacle to successful forestry in the United States that is not encountered elsewhere our forests will in time become a source of enormous and permanent revenue. So far from there being any such obstacle, we are told by those to whom the investigation of the question has been committed that we have at the very start every assurance of success. Many of the conditions which have made expensive and burdensome the establishment and maintenance of national forests elsewhere do not exist here. There are no forests in the world that exceed ours in the value and variety of the woods. We have every facility for developing them to the highest state of perfection and transporting the products to the most profitable markets. Therefore we have every reason to believe that what has been accomplished elsewhere in this respect we can even improve on here. The average net revenue of the nations given in the table above will be found to be something more than \$2 per acre. I think no one will dispute that the conditions for successful forestry in this country are at least a third better than the average in other countries. We have now embraced within the forest reserves of this country 164,963,555 acres. If these possibilities can be attained, if we can do in this country what has been done in others under difficulties we do not encounter, then we could derive from these forests the enormous net annual revenue of \$494,890,665.

Nearly six millions per annum could be realized from these forests in Arkansas alone. Of course these figures are large and invite the usual discredit with which new and advanced ideas are always assailed, but no good reason can be given why the American people can not accomplish here what has been done by the less ingenious and enterprising under less favorable circumstances elsewhere. To say the least of it, these forests properly managed not only protect the flow of the streams and the water supply in the earth, which is essential to our well-being as a nation, but they will certainly become a source of revenue of considerable consequences. Scientific forestry in this country is of such recent origin that the question of the proper and equitable disbursement of these revenues has not yet arisen, but the fact that a net return of \$128,000 in the year 1907 is shown, as against a deficit of \$12,000 in 1906 upon an increased expenditure of only \$0.086, shows how soon this question will arise. In anticipation of it, various suggestions have been made as to what purpose these proceeds should be applied to. It is contended by some that they should be applied to the acquisition of lands for reforestation upon the headwaters of navigable streams where the mountain slides have been stripped of their timber and where no Government land exists. If this suggestion should be adopted, it could not, in the nature of the case, be regarded as a permanent policy.

The Forestry Service has not, so far as I am informed, made an official recommendation upon the subject, but I have reason to believe that they would advise the appropriation of the proceeds for the present to the improvement of existing reservations and the establishment of schools of forestry and instructions in the development and operation of water-power plants and the control and measurement of streams. In so far as this may be necessary to an effective inauguration of the system

and the education of the people up to a proper appreciation of the possibilities that may be attained by scientific forestry, I am not prepared to say that the idea should not be carried out. But there is an important and fundamental limitation upon these suggestions which I think should be carefully guarded in the very beginning, and which I, for one, will never surrender without resisting with all the earnestness of which I am capable, and that is the equity which the localities, the States themselves, have to the public domain within their borders. As I stated in the beginning, the settled policy of the Government long since established is to convey the lands to settlers for homes and thereby add them to the taxable values of the States. I think no one will contend in the face of various adjudications upon the subject that the Federal Government could acquire lands in the first instance for the purpose of engaging in forestry.

Such a purpose does not come within any of the powers conferred by the Constitution. It is only where the acquisition is necessary to some governmental use and authorized by the Constitution that the Federal Government may own and hold such property. It was never intended that the Federal Government should hold the public domain as a means of engaging in enterprises, or even for the purpose of fostering and protecting agriculture or water power. These are matters which pertain to the power of the States. In the case of *Van Brocklin v. Tennessee* the Supreme Court said that "the United States do not and can not hold property as a monarch may for private and personal purposes." The property of the United States, like its revenues, must be applied to the payment of its debts and to provide for the common defense and general welfare. If the United States has power to acquire the lands proposed to be set apart as the Appalachian and White Mountain forest reserves it is because of the fact that the maintenance of forests upon these lands are necessary to the proper control of the water flow into navigable streams, over which the Federal Government has jurisdiction by virtue of the interstate-commerce clause of the Constitution. The power to acquire the lands for the purpose of protecting the navigability of an interstate stream may find ample warrant in the Constitution of the United States, but if it was proposed to acquire these lands simply for the purpose of improving the forests and conserving the timber supply or developing water power, independent of its necessity for interstate commerce, no one will contend that authority for such an undertaking could be found in the Federal Constitution.

In other words, the acquisition and ownership of lands by the Federal Government must be for the purpose of exercising or carrying out some governmental power or function which is found in the Constitution. This being true as to the lands acquired by the United States, I maintain that the public domain undisposed of should be administered in view of the same governmental power and purposes. The Constitution provides that "Congress shall have power to dispose of and make all needful rules and regulations, respecting the territory or other property of the United States." In this may be found authority for the establishment of forest reserves upon the public lands, but if it is to become a permanent policy and vast revenues in excess of the costs of the administration is to be derived therefrom, the question may well be asked, How should these revenues be applied and disbursed? We are told by scientific authority that the forests should be regarded as any other crop, to harvest when ripe and to be handled so as to be made to produce again. This is the business in which it is proposed we shall engage here. It is shown that intelligent silviculture is a highly profitable enterprise. In the old country millions of acres are owned by private individuals and maintained for the purpose of growing wood and timber for market. Now, if the Federal Government can reserve the public domain for the purpose of growing timber for market, why, upon the same principle, could it not fell the timber, clear it up, and rent it out to individuals if such a course was found to be profitable? Why could it not build houses and tenements upon it and farm it upon shares or collect rents?

None will contend that the appropriation of the public domain to such purpose would be within the constitutional powers of the Federal Government. Now, the potent influence of the forests upon the navigable streams furnishes the authority for reserving the lands and perpetuating the forests, but after this has been accomplished what is to become of the net revenue which a proper management of the forests will insure? If the lands are not reserved from entry they gradually become the subject of private ownership, find their way to the tax books and are added to the property of the State in which they lie. I insist that after they have served the Governmental purpose of controlling the flow upon the watersheds of the navigable streams the surplus proceeds equitably should go exactly where

the lands would have gone had the reserve not been established. The Supreme Court has said that the power to regulate commerce extends to the control of navigable rivers to the extent of the right to remove dams or obstructions upon the headwaters that diminish or impair navigability. If the destruction of the forests diminish the navigability of the streams, Congress may well make the reservation, but the management of the forests to conserve the timber supply or to develop the water powers within a State should be properly accomplished through the agency of the State government. In the case of *Fort Leavenworth v. Lowe* the Supreme Court said that the State and the General Government may deal with each other in any way they deem best to carry out the purposes of the Constitution.

Be this as it may one thing is certain, the Federal Government may or may not have the constitutional power to administer the public forests for the purpose of creating a revenue and appropriating that revenue as it pleases, but in either event good faith upon the part of the Government demands that the States should have the benefit of those funds for educational purposes after the costs of administration shall have been met. The 10 per cent which is to be paid into the State treasury under existing law for schools and roads recognizes the principle, but does not go far enough. The Federal Government should have the 10 per cent and the 90 should go to the schools and roads of the State. In my judgment we should early announce the policy of committing these funds sacredly to this purpose. Let it be upon condition that the funds be supplemented by a like sum from the State if you will, but make it in some way available for the schools and roads of the State, two subjects which, when rightly received, are closely akin. Due to the good works of the Agricultural Department an earnest demand has been created for the establishment of schools where agriculture, mechanics, and home economics may be taught, and the youth of the community be afforded the foundation for an industrial education. Some of the States have led out in this direction, notably Ohio, Alabama, Wisconsin, Minnesota, Nebraska, and the Dakotas. They have achieved most excellent results and have deserved, and in some instances received, recognition at the hands of the Federal Government.

I know that the objection usually urged against legislation of this character is that its general tendency is to obliterate the lines of demarcation between the States and Federal Government. I am opposed to paternalism, and shall resist every invasion of the rights of the States to regulate and control their internal and domestic affairs. I shall maintain, however, that this principle does not contravene the right of the State to demand and receive at the hands of the Federal Government the financial assistance which its enormous powers of raising revenue enables it to afford, or to furnish help through its administrative agencies, for which it is so amply equipped. There is no Member of the House more jealous of preserving the integrity of the States than I. I will not knowingly support any measure that substantially invades this principle. There seems to me, sir, to be little gained in our devotion to this principle by closing our eyes to the fact that many changes have been wrought since their early application to conditions as they then existed. New conditions have given rise to mutual obligations between the States and Federal Government, which, though they were not thought of, perhaps, when the Constitution was adopted, make them none the less wise to observe and none the less binding upon both. They involve no stretch of the Constitution and call for no change unless it be by constitutional methods. I believe in calling upon the Central Government for nothing that the States can do for themselves, but as our social and industrial conditions progress in their wonderful development, we are met with broader, more complex, and more comprehensive problems. Necessarily, more arise which, in the proper and efficient administration of government, call for the exercise of both State and Federal powers.

I for one regard the fact that both may be called into exercise as a source of governmental strength and not of weakness. The improvements in transportation and communication which have been developed in the last half century have revolutionized the commercial and industrial system of the whole country and made it impossible for the States to deal single-handed and alone with many of the problems presented thereby. There is no policy more clearly recognized or more firmly established than that of Government aid to the schools of the States. This is fully shown in the Congressional land-grant act of 1862 and the act of 1890, appropriating to each of the States \$25,000 for educational purposes. It seems to me to be peculiarly appropriate that the proceeds arising from the lands which are otherwise held to become homes for American citizens should be applied to the education of the American youth in the direction of the agriculturist and the home builder. I have heard

and read something of the reluctance of the American youth to enter the military service of the country. We are being urged from certain quarters to make the Army more attractive, in order that enlistments may be easier. If I remember correctly, the distinguished chairman of the Committee on Military Affairs stated on the floor of the House a few days ago that the Army was 22,000 short of its authorized strength. I for one am ever ready to make ample provision for the necessities of a sufficient military force to form the nucleus about which the American citizen may rally in time of danger and defend this country and overcome her foes; but I want to say that it must not be forgotten that supplies by which our armies are to be fed, clothed, and maintained, and our ships paid, our pension rolls met, must be produced by another army that pitches its tents on the country side and gives constant battle to the elements with plow and with blade.

Let them fail to keep step with the advancing seasons but for a day, and want and famine threaten the prosperity of the realm. The failure of their labors for a season means more to this Republic than the advance of a foreign foe upon her borders. Recruits, sir, for this army have been hard to enlist, and to-day it is millions short of its authorized strength. Something must be done to make its ranks more attractive. The rural districts must be made more inviting. Agriculture, the rural districts must be elevated to the home economics, and the mechanical arts must be elevated to the dignity of the professions. The welfare, the peace, the strength, and stability of this nation depend more upon contentment and prosperity in the rural home than upon all other conditions combined. If country life in America is made so inviting and remunerating as to turn back the flow from the farm to the overcrowded cities, our greatest cause of disturbance in social conditions will have been removed. Better than this, it will bring about by proper and normal methods that equal distribution of wealth, without which no people can attain their highest development or long continue patriotic. If we are to preserve the typical American, the greatest product of the human family, we must protect and perpetuate the environment by which he was produced. We have spent worlds of money upon the Army and Navy, and this is not saying we have spent too much. We have erected monumental buildings in almost every city and fair-sized town in the country, but we have contented the rural districts with little more than a package of garden seed and a Government publication.

The Agricultural Department, established with many misgivings, has accomplished more on less money than any other Department of the Government. They have reduced agriculture to a science and disclosed in it possibilities that invite the highest aspirations of the American youth. Realizing that the best results can not be attained without a rural population, educated along the line they are to travel and up to a proper appreciation of the beauties that surround them, they are urging upon the country the necessity of taking substantial steps toward providing for the rural youth this character of education. Much has been done by the States and National Government to provide for the establishment of colleges and universities throughout the country. This has largely been supplemented by denominational institutions and munificent endowment by philanthropic individuals. We are not suffering for want of facilities for higher education in æsthetic and classical learning. This is essential to our well-being, and I am proud that it is true, but what I wish to impress is that education should be so imparted as to serve some other purpose than to hold out to the farmer boy the allurements of becoming President of the United States or attaining renown and distinction. Let him be taught that there is no field of activity in which education of the right sort can be employed to a better advantage than in agriculture and the industrial arts. Upon all sides there are evidences of a return of the original idea that the farm should produce the food, raiment, and implements demanded by its own necessities. The cheap factory-made articles that have so long flooded the country do not meet every demand.

A plainer and more substantial furniture is sought, and creations in wood, iron, and brass are engaging the attention of the artisan. The handicrafts that afford opportunity for originality and development of talent, cut off by the automatic and monotonous processes of the factory, are beginning to afford once more a profitable and engaging vocation. The rural districts are full of opportunities which only need the education which pertains to such things to realize and appreciate. The tendency of the age has been in the direction of grand achievement and great things. The busy marts of trade and commerce, the domain of finance, and the dizzy heights of professional and political fame have been held out to the youth of our country as the only fields worthy of his ambitions or in which his labors would meet with the highest reward. This is wrong. It has driven the farmer boy from the old homestead, where opportu-

nities of the highest order lay within his touch, to take his place as an obscure atom in the mass of humanity that crowd and trample upon each other in the great cities of the land. Let us open his eyes to the beauties and the possibilities and the independence that may be his in the realms remote from towns. Mr. Chairman, for this purpose these hills, these streams, and these forests are his.

THE RIGHTS OF THE STATE IN NATIONAL FORESTS.

The National Government has long been committed to the policy of appropriating the public domain to the people for homes. In this way the West has been settled; the lands have been added to the taxable values of the States and produced the funds by which roads and schools have been maintained. If the public domain is to be reserved in forests that produce a revenue, the net proceeds should go to the States for the maintenance for agricultural schools for the people. [Loud applause on the Democratic side.]

The next amendment was, on page 28, after line 13, to insert:

That 10 per cent of all money received from each forest reserve during any fiscal year, including the year ending June 30, 1906, shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated: *Provided*, That when any forest reserve is in more than one State or Territory or county the distributive share to each from the proceeds of said reserve shall be proportional to its area therein: *And provided further*, That there shall not be paid to any State or Territory for any county an amount equal to more than 40 per cent of the total income of such county from all other sources.

of Oregon
Mr. FULTON. I ask the Senator in charge of the bill if he will consent to amend this provision by striking out "ten," in line 14, and inserting "twenty;" so as to read "20 per cent?" I do not care to take up time to go into an explanation of this matter. I have discussed it with other Senators from forest-reserve States, and they think it should be as high as 25 per cent.

Mr. TELLER. I think it ought to be 25 per cent.

Mr. FULTON. I will make it that, if the Senator has no objection. It is simply in lieu of taxes.

of Oregon
Mr. PROCTOR. Mr. Pinchot was before us, and he had gone over this matter very carefully. There was in the committee quite a strong objection to confining it to the States where these forest reserves exist. Some thought that it should be distributed to all the States and Territories of the country. I combatted that because it would be such a division that it would amount to very little. As this is a new provision, I think it is much better to let it stand as it is, as Mr. Pinchot has prepared it. In many counties it will be a very large proportion of the taxes.

Mr. TELLER. Oh, no.

Mr. PROCTOR. If, after a year's trial, it appears that any section is suffering I shall certainly be very glad to have a larger percentage given to the locality.

Mr. PERKINS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Oregon yield to the Senator from California?

Mr. FULTON. Certainly.

of California
Mr. PERKINS. I trust the Senator from Oregon and the Senator from Colorado will not insist upon the amendment to the amendment, for if they do I fear the point of order will be raised that it is new legislation. I introduced a bill, which has been pending before the Committee on Public Lands for some time, and we have failed to have favorable action upon it. We have the recommendation of the Secretary of Agriculture and the Chief Forester for the 10 per cent proposed. He would not exceed that recommendation, but admitted the justice of our claim. We have, I think, over 104,000,000 acres of forest reserves in the country. There are 102 different forest reserves, 100 of which are in the United States and 2 of which are in Alaska. There are counties in the West—in Nevada, Oregon, California, and Washington—where nearly the whole of the county, or 50 per cent of the county, has been absorbed in a forest reserve.

But I will not weary the Senate by going into details. We can carry the amendment of the committee. The point of order will not be made if we do not exceed 10 per cent. I hope our

friends from Colorado and Oregon will assent to the amendment of the committee, and that it will be adopted.

Mr. FULTON. Mr. President, I do not know that I shall insist on the amendment to the amendment, but I want to make a word of explanation. The Senator from Vermont says that they considered the advisability of distributing this fund among all the States. It seems to me it must be apparent on a moment's thought how absolutely unjust such a proposition would be. These lands are withdrawn from taxation, withdrawn from settlement, withdrawn from all private use. They can not be appropriated to any private enterprises, but are held for the benefit of the whole people of the country and in order that the forests of the country may be reserved.

The entire country gets the benefit of reserving the forests equally with the localities there, but these lands have been withdrawn in the States. For instance, over one-fifth of the entire area of Oregon is withdrawn from entry and can not be taken up for homesteading nor the title acquired in any manner. It does not pay any taxes. It does not contribute in any manner to the public expense or to the public burden.

This is proposed in lieu of those taxes, but it is not equally compensatory at all. So far as I am concerned, I am willing to let the 10 per cent go. It amounts to nothing. If we can not get what is a measure of justice, I say lose it all.

Mr. TELLER. So do I.

Mr. FULTON. I do not propose, as far as I am concerned, to be prevented from presenting my views on this subject by a threat that it will all be knocked out.

Mr. TELLER. Mr. President, the Senator from California [Mr. PERKINS] tells us that Mr. Pinchot has consented that this might go in, or words to that effect—

Mr. PERKINS. He recommended it, if the Senator please. I used the word "recommendation."

Mr. TELLER. But the Senator also said, as I recall it, that he would not recommend anything else, and that therefore we ought to accept it.

Now, Mr. President, I hope somebody will make a point of order on this amendment if we leave it at 10 per cent. I would not like to do it myself, but I really hope somebody will. It is simply a beggarly amount. Nearly one-half of all the forests of the State of Colorado to-day are reservations. A very few of them might properly be reservations, because it would conserve undoubtedly the irrigating purposes of the State, but I will venture to say that not 25 per cent are of any value whatever to the irrigating interests of the State. As for lumber, they are practically of no value except the coarse lumber that might be used in the neighborhood.

Not long since I heard a Senator say that these reserves were to save the lumber for the whole people of the United States. Mr. President, I will venture to say now that a majority of the lumber used in Colorado comes from the States of Oregon and Washington. We have some fair timber, pine, in the southern part of the State, on the mountains generally. It is only good for the coarsest kind of lumber. Ever since we have had a railroad we have shipped our pine lumber either from Chicago or from the Mississippi River, and a little from Oregon and Washington.

About one-half of Colorado is a mountain country and about one-half is plain. About 50,000 square miles are plain, about 50,000 square miles are mountain and mountain valleys, and the most of the mountain country has more or less timber upon it.

Mr. President, areas as great as many of the States have been withdrawn; withdrawn without any application from anybody in the State of Colorado; withdrawn without even consultation with the representatives of that State on this floor or in the other body; withdrawn in some instances against the protests of the entire delegation. These great areas are now dedicated to solitude and silence. Nobody can go in. A man can not even take his gun and go there without permission from the forest-reserve people. No taxes are paid. There are valleys there that would support a population big enough to maintain a school and a church that we are absolutely prohibited from touching. If the cattle of a farmer stray into one of those reservations, he gets into trouble immediately with the Department. The Department, without any authority of law whatever, have been staking out this man and the other man and saying, "You may let your herd go in there, and you may pay so much a head." The ordinary settler could not let his cows and young cattle go in unless he would first make an arrangement by which he would pay to the Bureau of Forestry.

Mr. CULLOM. What becomes of the money?

Mr. TELLER. What becomes of the money, the Senator from Illinois asks. By one of the foolish provisions that we are

often guilty of here, we provided that whenever they collected this money they might expend it. The pending bill, I believe, has fixed a time when it shall go into the Treasury.

Mr. PERKINS. Will the Senator permit me?

Mr. TELLER. Certainly.

Mr. PERKINS. I will say that the testimony before the committee was that we were receiving for the sale of timber that was inspected and pasturage and other privileges in the forest reserves something over half of our annual expenditure; and it was stated by the Chief Forester that he hoped in less than five years the forest reserves would be self-sustaining, and that the improvement in timber would greatly increase by the preservation of the reserves.

Mr. TELLER. I understand that we cleared last year about \$400,000, and there is an appropriation in this bill for one million.

Mr. LATIMER. Between five and six hundred thousand dollars.

Mr. TELLER. Between five and six hundred thousand dollars.

Mr. PERKINS. Last year we appropriated \$875,000, and the total expenditure was \$1,400,000. This year it is estimated that the receipts will amount to \$600,000.

Mr. TELLER. I understand it is the theory of the Forestry Bureau, as I suppose it might be called, that they are going to sell the timber. I know what I am now going to state to be a fact. A settler living on the prairies adjoining one of these reserves went in and hauled out two or three loads of dead timber—practically dead pine knots, where the body of the tree had disappeared and the knots and the sap in them remained. He was compelled to pay 25 cents a load to one of these traveling inspectors, who, I have no doubt, put the money in his pocket. I do not know that he did.

Mr. President, the United States ought not to be a timber speculator; it ought not to set up a timber establishment. I deny the right of the Government of the United States to go in, even under the present law, and pick out a tree and say, "Now, there is a tree you may cut, and the trees out here you may not cut." That is the Prussian system and that is the system in some of the other European countries, but we have a different form of government here.

I do not know, and nobody can tell me, where the authority comes from that the Secretary of the Interior, or, under present conditions, the Secretary of Agriculture, can send a man out and authorize him to tell me what I am to cut on the public land. When the forest is reserved, it is reserved, and there is not any law to authorize anyone to cut it. There is not any law, in my judgment, that authorizes anyone to say to one man, "You may put your herd into a forest reserve," and to another, "You may not." Yet that is what is being done. Nor do I conceive that anyone has a right to say to one man, "You may put so many head of sheep or cattle in," and to another man, "You may put so many head in," and to fix the price they are to pay.

The Senator who has this bill in charge says that the income from these forests would, in some counties, amount to a large sum. Mr. President, the Government has sold no timber to amount to anything in the State of Colorado, and it will sell none except what it may dole out to some poor settler—a few loads of timber, perhaps, and charge him 25 cents or 50 cents a load for it. There is no market for timber of that character there and there can not be any market for it created there. Practically nothing will be derived by us from that source. We get no taxes from the men who live within a forest reserve. If the forest reserve was not there some of this land, at least, would come within the taxing power of the State and county.

Mr. FULTON. Will the Senator from Colorado let me interrupt him right there?

Mr. TELLER. Yes.

Mr. FULTON. I call the Senator's attention to the amount of revenue that could possibly be derived to the country from the nature of the timber land. I do not know the condition in the Senator's State, but in my own State the timber land would yield on an average 12,000 feet board measure per acre. The amount would vary. The timber in some places would be greater and in some places less; but, say, from 12,000 feet up to 17,000 feet board measure per acre; and at an average of a dollar per thousand stumpage, which is about the average price, that would be \$17 per acre in fifty years which would be derived from that source, and we would be entitled to 10 per cent of that, or \$1.70.

Mr. TELLER. I want to say to the Senator that what they may do in the timber market of Oregon, Washington, or California or even of Montana is no criterion to judge of what they may do in Colorado. We have an entirely different forest con-

dition there. There are thousands and thousands of acres in forest reserves over which I could take a light buggy and drive without injuring the buggy. The trees would not prevent my doing it. They are scattered; they are short; they are worthless; and the Government will sell none of that timber, and has never sold a single dollar's worth of it, except, as I have stated, to some poor settler. I say it is an imposition on the settler.

Mr. President, I am not speaking simply for Colorado. Some other States are differently situated. The revenues which come here are not derived from timber sales in Colorado. We should not get much out of Colorado. But I want to read this provision of the amendment. It says:

That 10 per cent of all moneys received from each forest reserve during any fiscal year, including the year ending June 30, 1906, shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated—

That is not enough. The amendment goes on to say—

to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated.

Mr. President, we in the West are able to take care of ourselves; and when it comes to determining where the money that belongs to us shall go, we do not want the guardianship of this nation, either as a State or as individuals.

The threat of the Senator from California [Mr. PERKINS] that some Senator would make a point of order on this amendment, as I stated in the beginning, does not frighten me a particle. I would rather see the point of order made than see this amendment passed in the shape it now is. We will pay for making our own roads and we will pay for maintaining our own schools.

The State of Colorado, Mr. President, has taken whatever subsidy the Government has been willing to give to it as a State to maintain the schools; but years before there was an acre of land surveyed and years before anybody could lay a claim to an acre of that land we established our school system, which we have continued to maintain. We established a free-school system, and we have maintained it from that day to this hour. We did not need even the donation which was given to various States of the sixteenth and thirty-sixth sections to maintain our schools. We ourselves would have maintained them if the Government had never given us an acre of land; and we will maintain them without the little, contemptible sum we would get out of this provision should it be enacted into law.

Mr. President, I feel that it is a personal indignity that it should be supposed that we would be satisfied with 10 per cent; and I felt somewhat humiliated when the Senator said that Mr. Pinchot would not agree that it should be any more than 10 per cent. The time will come, Mr. President, when somebody will tell you what shall be your appropriations and what shall be your method of legislation. As the Senator from Maine [Mr. HALE] said, there have been changes here; and it may be, Mr. President, that by and by we shall consent to have it written down that we are either incapable or unwilling to discharge the duties which our States put upon us when they send us here as their representatives.

Mr. FLINT. Mr. President, I do not want this occasion to go without making the statement that we are in favor of withdrawing land within our States for forest reserves. So far as the people of the State of California are concerned, they are entirely satisfied with and approve the action of withdrawing public lands from settlement in the State of California for forest reservations. In the southern part of the State it has been the means of increasing our water supply, and in the northern part of the State it has been the means of saving what little timber we had left from the great companies that had by fraudulent means acquired thousands of acres of timber lands, and the timber lands now in forest reserves will be saved for future generations.

It may be that other States have not suffered by reason of frauds, but the people of the State of California are willing that the timber lands should be in possession of the Government and not subject to entry, and thus stop the fraudulent acquisition of timber lands that has taken place in the State in the past few years. Whilst some of this land has been honestly taken up, the large part of it has been taken up by dummies and transferred to corporations, and held for speculative purposes. So far as the people of the State of California are concerned, they are heartily in favor of the administration of the forest reserves under the management of Mr. Pinchot, and, in my opinion, the reservation of these lands have been and will continue to be a great benefit to my State.

Mr. TELLER. Mr. President, I do not know what has been the condition in the State of California, and that is not mate-

rial; but we have never had those great frauds in Colorado; we have never had this great aggregation of timber land, because our timber was not of sufficient value, and there has been no inducement to make people take up land and hold it for the timber. We have had some complaint at times about the coal lands, but never about the timber lands. We have got some few timber reservations which are well laid out upon the top of the range; but they do not comprise, I suppose, 5 per cent of the entire reservations. In one forest reserve that has been reserved for years there is not a tree of any size or age, and we had a good deal of difficulty in getting that released. There is nothing there but brush, and not much of that.

Mr. President, I do not mean that forest reserves should not be made somewhere; but I say there ought to be some intelligent discrimination as to where they shall be made. It is not necessary to make a forest reserve in every place where trees grow. Every forest reserve is not calculated to preserve the water. What I complain of is that the Department sends irresponsible people out there to make these selections; that they send a class of people utterly without judgment and discretion, and sometimes without integrity, to take possession and control of the forests, and to tell us what we may do and what we may not do. I make no attack upon anything that concerns other States except Colorado; and it is about all I can do to attend to that under present conditions.

Mr. FLINT. Mr. President, I do not want to interfere with the affairs of Colorado. I have no doubt there are places where land has been included within forest reserves where it should be withdrawn and opened to homestead entry; and there is a bill now pending before the Senate which permits homestead entry within forest reserves.

Mr. FULTON. That bill has already passed both Houses, and is now in conference.

Mr. TELLER. Has the appropriation bill been laid aside?

The VICE-PRESIDENT. It has not been. The question is on agreeing to the amendment proposed by the Senator from Oregon [Mr. FULTON].

Mr. FULTON. Mr. President, I will simply state that I will not press the amendment, because there are a number of Senators from the forest-reserve States who are willing to accept the 10 per cent rather than get nothing. Personally I would prefer to lose that. If I were simply representing an interest that is peculiar to my own State, I would insist on the amendment, but under the circumstances I will not. If it were not so late in the evening I should like to discuss—

Mr. TELLER. The bill is not going to be passed to-night.

The VICE-PRESIDENT. The Chair understands that the Senator from Oregon withdraws his amendment.

Mr. PATTERSON. I hope the Senator from Oregon will not do that.

Mr. KEAN. If this amendment can not be disposed of this evening—of course, I wish it could—I will ask the Senator from Vermont [Mr. PROCTOR] whether he is not willing to have an executive session?

Mr. PROCTOR. Inasmuch as we do not seem to be able to pass the bill to-night, I shall not object to an executive session.

Mr. KEAN. Then I move that the Senate proceed to the consideration of executive business.